

# Union Calendar No. 312

106<sup>TH</sup> CONGRESS  
2D SESSION

# H. R. 3439

[Report No. 106-567]

To prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 17, 1999

Mr. OXLEY (for himself, Mrs. CUBIN, Mr. STEARNS, Mr. PALLONE, and Mr. EHRLICH) introduced the following bill; which was referred to the Committee on Commerce

APRIL 10, 2000

Additional sponsors: Mr. FOSSELLA, Mr. ROGERS, Mr. CALLAHAN, Mr. GOODE, Mr. STUMP, Mr. MANZULLO, Mr. SUNUNU, Mr. BURR of North Carolina, Mr. SALMON, Mr. PICKETT, Mr. NORWOOD, Mr. BASS, Mr. TURNER, Mr. SMITH of Texas, Mr. SANDLIN, Mrs. EMERSON, Mr. PETRI, Mr. GEKAS, Mr. NETHERCUTT, Mr. TALENT, Mr. RAMSTAD, Mr. STRICKLAND, Mr. SKEEN, Mr. WHITFIELD, Mr. SHIMKUS, Mr. GUTKNECHT, Mr. BRYANT, Mr. COMBEST, Mrs. WILSON, Mr. CANADY of Florida, Mr. NEY, Mr. PETERSON of Minnesota, Mr. COLLINS, Mr. EDWARDS, Mr. EVERETT, Mr. THORNBERRY, Mr. LAHOOD, Mr. BOEHLERT, Mr. STUPAK, Mr. BLUNT, Mr. SPRATT, Mr. MCHUGH, Mr. RYAN of Wisconsin, Mr. LARGENT, Mr. PICKERING, Mr. BACHUS, Mr. BARRETT of Nebraska, Mr. UPTON, Mr. COBLE, Mr. BONILLA, Mr. SWEENEY, Mr. MORAN of Kansas, Mr. FOLEY, Mr. COSTELLO, Mr. LATHAM, Mr. PHELPS, Ms. BERKLEY, Mr. HILL of Montana, Mr. DICKEY, Mr. GALLEGLY, Mr. WATKINS, Mr. THUNE, Mr. ADERHOLT, Mr. HUTCHINSON, Mr. LEWIS of Kentucky, Mr. SESSIONS, Mr. CRAMER, Mr. HAYES, Mr. LEWIS of California, Mr. RILEY, Mr. OBERSTAR, Mr. COBURN, Mr. BATEMAN, Mr. DEAL of Georgia, Mr. UDALL of New Mexico, Mr. DREIER, Mr. LUCAS of Oklahoma, Mr. COOK, Mr. FORBES, Mr. HOEKSTRA, Mr. TAYLOR of North Carolina, Mr. RYUN of Kansas, Mr. RAHALL, Mr. BEREUTER, Mr. CAMP, Mr. WISE, Mr. SIMPSON, Mr. MCINTOSH, Mr. ISAKSON, Mr. JONES of North Carolina, Mr. JENKINS, Mr. DAVIS of Virginia, Mr. BARCIA, Mr. GOODLATTE, Mrs. BIGGERT,

Mr. YOUNG of Alaska, Mr. HULSHOF, Mr. BERRY, Mr. FRELINGHUYSEN, Mr. GREENWOOD, Mr. CANNON, Mr. VISCLOSKEY, Mr. GIBBONS, Mr. CLEMENT, Mr. TIAHRT, Ms. DANNER, Mr. NEAL of Massachusetts, Mr. HAYWORTH, Mr. HALL of Texas, Mr. EWING, Mr. SPENCE, Mr. DEMINT, Mr. FORD, Mr. GREEN of Texas, Mr. SMITH of Michigan, Mr. KINGSTON, Mr. SHOWS, Mr. CAMPBELL, Mr. PETERSON of Pennsylvania, Mr. BUYER, Mr. BARTLETT of Maryland, Mr. EVANS, Mr. DICKS, Mr. MCINNIS, Mr. FROST, Mr. STENHOLM, Mr. BURTON of Indiana, Mr. GANSKE, Mrs. MYRICK, Mr. ISTOOK, Mr. HERGER, Mr. FRANKS of New Jersey, Mr. KNOLLENBERG, Mr. BARR of Georgia, Mr. BRADY of Texas, Mr. LOBIONDO, Mr. MCCRERY, Mr. CHAMBLISS, Mr. ALLEN, Mr. HASTINGS of Washington, Mr. ABERCROMBIE, Mr. SHADEGG, Mrs. JOHNSON of Connecticut, Mr. WOLF, Mr. LUCAS of Kentucky, Mr. SAWYER, Mr. BLAGOJEVICH, Mr. LIPINSKI, Mr. SCHAFFER, Mr. HILLEARY, Ms. DUNN, Mr. WALDEN of Oregon, Mr. FLETCHER, Mr. NUSSLE, Mrs. NORTHUP, Mr. ETHERIDGE, Mr. OLVER, Mr. WAMP, Mr. LAMPSON, Mr. PITTS, and Mr. GORDON

APRIL 10, 2000

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

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## A BILL

To prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Radio Broadcasting  
 5 Preservation Act of 1999”.

6 **SEC. 2. PROHIBITION.**

7 (a) ~~RULES PROHIBITED.~~—Notwithstanding section  
 8 303 of the Communications Act of 1934 (47 U.S.C. 303),

1 the Federal Communications Commission shall not pre-  
 2 scribe rules authorizing the operation of new, low power  
 3 FM radio stations; or establishing a low power radio serv-  
 4 ice; as proposed in MM Docket No. 99-25.

5 (b) TERMINATION OF PREVIOUSLY PRESCRIBED  
 6 RULES.—Any rules prescribed by the Federal Commu-  
 7 nications Commission before the date of enactment of this  
 8 Act that would be in violation of the prohibition in sub-  
 9 section (a) if prescribed after such date shall cease to be  
 10 effective on such date. Any low power radio licenses issued  
 11 pursuant to such rules before such date shall be void.

12 **SECTION 1. SHORT TITLE.**

13 *This Act may be cited as the “Radio Broadcasting*  
 14 *Preservation Act of 2000”.*

15 **SEC. 2. MODIFICATIONS TO LOW-POWER FM REGULATIONS**  
 16 **REQUIRED.**

17 (a) *THIRD-ADJACENT CHANNEL PROTECTIONS RE-*  
 18 *QUIRED.—*

19 (1) *MODIFICATIONS REQUIRED.—The Federal*  
 20 *Communications Commission shall modify the rules*  
 21 *authorizing the operation of low-power FM radio sta-*  
 22 *tions, as proposed in MM Docket No. 99-25, to—*

23 (A) *prescribe minimum distance separa-*  
 24 *tions for third-adjacent channels (as well as for*

1       *co-channels and first- and second-adjacent chan-*  
 2       *nels); and*

3               *(B) prohibit any applicant from obtaining*  
 4       *a low-power FM license if the applicant has en-*  
 5       *gaged in any manner in the unlicensed oper-*  
 6       *ation of any station in violation of section 301*  
 7       *of the Communications Act of 1934 (47 U.S.C.*  
 8       *301).*

9               *(2) CONGRESSIONAL AUTHORITY REQUIRED FOR*  
 10       *FURTHER CHANGES.—The Federal Communications*  
 11       *Commission may not—*

12               *(A) eliminate or reduce the minimum dis-*  
 13       *tance separations for third-adjacent channels re-*  
 14       *quired by paragraph (1)(A), or*

15               *(B) extend the eligibility for application for*  
 16       *low-power FM stations beyond the organizations*  
 17       *and entities as proposed in MM Docket No. 99–*  
 18       *25 (47 C.F.R. 73.853),*

19       *except as expressly authorized by Act of Congress en-*  
 20       *acted after the date of enactment of this Act.*

21               *(3) VALIDITY OF PRIOR ACTIONS.—Any license*  
 22       *that was issued by the Commission to a low-power*  
 23       *FM station prior to the date on which the Commis-*  
 24       *sion modify its rules as required by paragraph (1)*

1        *and that does not comply with such modifications*  
2        *shall be invalid.*

3        *(b) FURTHER EVALUATION OF NEED FOR THIRD-AD-*  
4        *JACENT CHANNEL PROTECTIONS.—*

5                *(1) PILOT PROGRAM REQUIRED.—The Federal*  
6        *Communications Commission shall conduct an exper-*  
7        *imental program to test whether low-power FM radio*  
8        *stations will result in harmful interference to existing*  
9        *FM radio stations if such stations are not subject to*  
10       *the minimum distance separations for third-adjacent*  
11       *channels required by subsection (a). The Commission*  
12       *shall conduct such test in no more than 9 FM radio*  
13       *markets, including urban, suburban, and rural mar-*  
14       *kets, by waiving the minimum distance separations*  
15       *for third-adjacent channels for the stations that are*  
16       *the subject of the experimental program. At least one*  
17       *of the stations shall be selected for the purpose of eval-*  
18       *uating whether minimum distance separations for*  
19       *third-adjacent channels are needed for FM translator*  
20       *stations. The Commission may, consistent with the*  
21       *public interest, continue after the conclusion of the ex-*  
22       *perimental program to waive the minimum distance*  
23       *separations for third-adjacent channels for the sta-*  
24       *tions that are the subject of the experimental pro-*  
25       *gram.*

1           (2) *CONDUCT OF TESTING.*—*The Commission*  
2           *shall select an independent testing entity to conduct*  
3           *field tests in the markets of the stations in the experi-*  
4           *mental program under paragraph (1). Such field tests*  
5           *shall include—*

6                     (A) *an opportunity for the public to com-*  
7                     *ment on interference; and*

8                     (B) *independent audience listening tests to*  
9                     *determine what is objectionable and harmful in-*  
10                    *terference to the average radio listener.*

11           (3) *REPORT TO CONGRESS.*—*The Commission*  
12           *shall publish the results of the experimental program*  
13           *and field tests and afford an opportunity for the pub-*  
14           *lic to comment on such results. The Federal Commu-*  
15           *nications Commission shall submit a report on the ex-*  
16           *perimental program and field tests to the Committee*  
17           *on Commerce of the House of Representatives and the*  
18           *Committee on Commerce, Science, and Transpor-*  
19           *tation of the Senate not later than February 1, 2001.*  
20           *Such report shall include—*

21                     (A) *an analysis of the experimental pro-*  
22                     *gram and field tests and of the public comment*  
23                     *received by the Commission;*

24                     (B) *an evaluation of the impact of the*  
25                     *modification or elimination of minimum dis-*

1            *tance separations for third-adjacent channels*  
 2            *on—*

3                            *(i) listening audiences;*

4                            *(ii) incumbent FM radio broadcasters*  
 5                            *in general, and on minority and small*  
 6                            *market broadcasters in particular, includ-*  
 7                            *ing an analysis of the economic impact on*  
 8                            *such broadcasters;*

9                            *(iii) the transition to digital radio for*  
 10                            *terrestrial radio broadcasters;*

11                            *(iv) stations that provide a reading*  
 12                            *service for the blind to the public; and*

13                            *(v) FM radio translator stations;*

14                            *(C) the Commission's recommendations to*  
 15                            *the Congress to reduce or eliminate the min-*  
 16                            *imum distance separations for third-adjacent*  
 17                            *channels required by subsection (a); and*

18                            *(D) such other information and rec-*  
 19                            *ommendations as the Commission considers ap-*  
 20                            *propriate.*

Amend the title so as to read: “A bill to require the Federal Communications Commission to revise its regulations authorizing the operation of new, low-power FM radio stations.”.

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